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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,786	08/01/2001	Kenneth C. Hart	134-001USA000	4021

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EXAMINER

GARBE, STEPHEN P

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 07/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/919,786

Applicant(s)

HART, KENNETH C.

Examiner

Stephen Garbe

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____

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1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is noted that printed information is only inferentially recited in claim 1 in an intended use limitation. Thus, it is unclear how limitations directed to unclaimed information and printing affects the structure or physical characteristics of the membrane.

3. Claim 24 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear what the shape of a "conical section" is. No new matter may be entered.

4. The drawings are objected to as failing to illustrate the "conical section" shape recited in claim 24. No new matter may be entered.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-6 and 17 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Brown, United States Patent No. 4,705,085. Brown discloses a cooler having an inflated side wall having cellular compartments 12k, which form "air chambers" as claimed, and an outer sheath 28 which provides protection and a place for printed matter. At the top of column 2, Brown states that the cooler can be made from flexible plastic. It is submitted that flexible plastic is a "membrane." However, if it is determined that flexible plastic is not a "membrane," then it would have been obvious to one of ordinary skill in the art at the time the invention was made to make Brown's cooler and sheath from a plastic membrane because the thickness of the material used would have been an obvious matter of mechanical expedience.

8. Claims 12 and 13 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Brown, United States Patent No. 4,705,085. Brown states that his air chambers are located between "ribs" 12h. It is submitted that such "ribs" would necessarily have to be formed by welding the inner and outer walls together because, otherwise the contained air would not be separated into pockets or chambers. Alternatively, it would have been obvious to weld the inner and outer walls together to form the air chambers because welding is an old and well-known method for forming air chambers in an inflatable container.

9. Claims 1, 7, 8, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher, United States Patent No. 4,044,867 in view of Brown, United

States Patent No. 4,705,085. Fisher discloses all claimed structural features except for a flexible membrane removably disposed on the outer surface. The term "cooler" does not define over Fisher because it adds no structure to the claim. Furthermore, Fisher's inflatable luggage will act as a cooler because its air chambers are insulators. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Fisher's inflatable luggage with a removable membrane, as taught by Brown at 28, because it would have provided puncture protection. In addition, if it is determined that Fisher's and Brown's materials are not "membranes," then it would have been obvious to one of ordinary skill in the art at the time the invention was made to make them membranes because the thickness of the material used would have been an obvious matter of mechanical expedience.

10. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher, United States Patent No. 4,044,867 in view of Brown, United States Patent No. 4,705,085, as applied to claim 8. Furthermore, it would have been obvious to provide Fisher's lid with at least one deeper air chamber because doing so would provide extra protection for the contents against items placed on top of the luggage.

11. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fisher, United States Patent No. 4,044,867 in view of Brown, United States Patent No. 4,705,085, as applied to claim 8. Furthermore, providing a smooth top for printing would have been an obvious matter of choice. Alternatively, it would have been obvious to provide a Fisher with a second removable membrane extending around the top, two

sides, and the bottom in order to provide puncture protection for the top and bottom and also to provide a location for printing, as taught by Brown.

12. Claims 1, 7-9, and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker, United States Patent No. 4,809,352 in view of Brown, United States Patent No. 4,705,085. Walker discloses all claimed structural features except for a flexible membrane removably disposed on the outer surface. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Walker's inflatable cooler with a removable membrane, as taught by Brown at 28, because it would have provided puncture protection. In addition, if it is determined that Walker's and Brown's materials are not "membranes," then it would have been obvious to one of ordinary skill in the art at the time the invention was made to make them membranes because the thickness of the material used would have been an obvious matter of mechanical expedience.

13. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Walker, United States Patent No. 4,809,352 in view of Brown, United States Patent No. 4,705,085, as applied to claim 8. Furthermore, providing Walker's cooler with a smooth top for printing would have been an obvious matter of choice. Alternatively, it would have been obvious to provide Walker's cooler with a second removable membrane extending around the top, two sides, and the bottom in order to provide puncture protection for the top and bottom and also to provide a location for printing, as taught by Brown.

14. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown, United States Patent No. 4,705,085 in view of Fisher, United States Patent No. 4,044,867. It would have been obvious to form Brown's air chambers by welding, as taught Fisher, because welding is a well-known way of forming such chambers.

15. Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 1. In addition, the type and thickness of material would have been an obvious matter of mechanical expedience.

16. Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown, United States Patent No. 4,705,085 in view of Fisher, United States Patent No. 4,044,867. It would have been obvious to provide Brown's cooler with an air pump, as taught by Fisher, because it is easier to inflate something by means of a pump than by a user blowing into a valve.

17. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown, United States Patent No. 4,705,085 in view of Fisher, United States Patent No. 4,044,867, as applied to claim 19 and further in view of Tepper, United States Patent No. 6,334,537. Furthermore, it would have been obvious to use a bellows pump, as taught by Tepper at 48, because bellows pumps are convenient and easy to use.

18. Claims 22, 23, 27, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker United States Patent No. 4,809,352. It would have been an obvious change in shape to make Walker's cooler pyramid-shaped or truncated pyramid-shaped because the shape of Walker's cooler does not affect its function. In addition, if it is determined that Walker's material is not a "membrane," then it would

have been obvious to one of ordinary skill in the art at the time the invention was made to make it a membrane because the thickness of the material used would have been an obvious matter of mechanical expedience.

19. Claims 22, 24, 27, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker United States Patent No. 4,809,352. It would have been an obvious change in shape to make Walker's cooler conical or frustoconical in shape because the shape of Walker's cooler does not affect its function.

20. Claims 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker United States Patent No. 4,809,352, as applied to claim 22, and further in view of Brown, United States Patent No. 4,705,085. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Walker's inflatable cooler with a removable membrane, as taught by Brown at 28, because it would have provided puncture protection. In addition, if it is determined that Brown's removable outer sheath is not a "membrane," then it would have been obvious to one of ordinary skill in the art at the time the invention was made to make it a membrane because the thickness of the material used would have been an obvious matter of mechanical expedience. Furthermore, Brown teaches providing printed matter on the outer sheath. To use text as the printed matter would have been an obvious matter of choice.

21. Claims 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to 22. Furthermore, the type and thickness of material used would have been obvious matters of mechanical expedience.

22. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 22. Furthermore, to use one's mouth to inflate Walker's container, thereby filling the chambers with carbon dioxide, would have been obvious.

23. Claims 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 22 and further in view of Fisher, United States Patent No. 4,044,867. It would have been obvious to provide Walker's cooler with an air pump, as taught by Fisher, because it is easier to inflate something by means of a pump than by a user blowing into a valve.

24. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 34 and further in view of Tepper, United States Patent No. 6,334,537. Furthermore, it would have been obvious to use a bellows pump, as taught by Tepper at 48, because bellows pumps are convenient and easy to use.

25. The abstract of the disclosure is objected to because it is too long. Correction is required. See MPEP § 608.01(b).

Applicant is reminded of the proper content of an abstract of the disclosure.

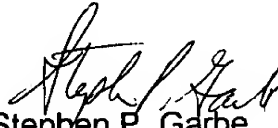
A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

- Where applicable, the abstract should include the following:
- (1) if a machine or apparatus, its organization and operation;
 - (2) if an article, its method of making;
 - (3) if a chemical compound, its identity and use;
 - (4) if a mixture, its ingredients;
 - (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

26. The remaining patents are cited to show other, similar inflatable containers.
27. Any inquiry concerning this application or proceeding should be directed to Stephen Garbe who can be reached at 703-308-1207. The examiner can normally be reached Monday-Thursday between the hours of 7:15 and 4:45 and alternate Fridays between the hours of 7:15 and 3:45.
28. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young, can be reached on 703-308-2572.
29. The fax phone numbers for Technology Center 3700 are 703-872-9302 for papers filed in response to a non-final Office Action and 703-872-9303 for papers filed in response to a Final Office Action.
30. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist, whose telephone number is 703-308-1148.


Stephen P. Garbe
Primary Examiner
Group 3720